

JAMES C. NIELSEN (111889)  
*jnielsen@nklp.law*  
MELISSA A. WURSTER (198899)  
*mwurster@nklp.law*  
NIELSEN KATIBAH LLP  
100 Smith Ranch Road, Suite 350  
San Rafael, California 94903  
Telephone: (415) 693-0900  
Facsimile: (415) 693-9674

Attorneys for defendant/cross-defendant,  
Philadelphia Indemnity Insurance Company

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

LANDMARK AMERICAN INSURANCE  
COMPANY,

Plaintiff,

v.

NAVIGATORS INSURANCE  
COMPANY, PHILADELPHIA  
INDEMNITY INSURANCE COMPANY,  
Does 1 through 20,

Defendants.

AND RELATED COUNTER-CLAIM  
AND CROSS-CLAIM

Case no. 3:18-cv-05504 CRB

Honorable Charles R. Breyer

**STIPULATION AND ~~PROPOSED~~  
ORDER IN SUPPORT OF  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER CASES SHOULD  
BE RELATED**

[Civil Local Rules 3-12 & 7-11]

This Stipulation is entered into by and among Philadelphia Indemnity Insurance Company, Gregory Kuhl, Ann Wrixon, Landmark American Insurance Company, and Navigators Insurance Company, by and through their respective counsel.

WHEREAS, *Landmark American Insurance Company v. Navigators Insurance Company*,

1 *Philadelphia Indemnity Insurance Company et al.*, case number 3:18-cv-05504-CRB, was filed in  
 2 this court on September 7, 2018 and is now assigned to the Honorable Charles R. Breyer in the  
 3 San Francisco Division (“Landmark action”);

4 WHEREAS, *Philadelphia Indemnity Insurance Company v. Gregory Kuhl and Ann*  
 5 *Wrixon*, case number 4:20-cv-03708-HSG, was filed in this court on June 4, 2020 and has been  
 6 reassigned to the Honorable Haywood S. Gilliam, Jr., in the Oakland Division (“Philadelphia  
 7 action”);

8 WHEREAS, both cases arise from the same underlying bankruptcy adversary proceedings  
 9 against Gregory Kuhl and Ann Wrixon, respectively a former board member and executive  
 10 director of debtor Independent Adoption Center (“IAC”). Landmark, Navigators and  
 11 Philadelphia each insured IAC, Kuhl and Wrixon, but did so under different types of policies that  
 12 were effective during different time periods. Both cases involve the same underlying adversary  
 13 proceedings, common insurance policies and common parties.

14 WHEREAS, Landmark is the plaintiff and Navigators and Philadelphia are defendants in  
 15 the Landmark action, which concerns their respective insurance coverage obligations to their  
 16 common insureds, Kuhl and Wrixon.

17 WHEREAS, Philadelphia is the plaintiff and Kuhl and Wrixon are defendants in the  
 18 Philadelphia action, in which Philadelphia seeks reimbursement of a settlement payment and  
 19 defense fees paid in connection with the underlying adversary proceedings;

20 WHEREAS, counsel for the parties in both actions agree that the cases involve common  
 21 questions of law and fact and agree that the Philadelphia action should be related to the  
 22 Landmark action and assigned to Judge Breyer to avoid the possibility of conflicting results,  
 23 duplication of effort and undue expenditure of party and Court resources that may result if the  
 24 cases are conducted before different judges;

25 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned  
 26 counsel for the parties to the Landmark Action and the Philadelphia Action, that:

- 27 1. The following actions are related cases within the meaning of Local Civil Rule 3-  
 28

12(a):

a. *Landmark American Insurance Company v. Navigators Insurance Company, Philadelphia Indemnity Insurance Company et al.*, case number 3:18-cv-05504 CRB; and

b. *Philadelphia Indemnity Insurance Company v. Gregory Kuhl and Ann Wrixon*, case number 4:20-cv-03708-HSG.

2. The above-captioned actions should be deemed related under Local Rule 3-12(b) as set forth in the accompanying Administrative Motion to Consider Whether Cases Should Be Related.

This stipulation is deemed executed as of June 26, 2020 and is without prejudice to any other rights that any party may have.

11 NIELSEN KATIBAH LLP  12 13 By: <u>/s/ James C. Nielsen</u> 14 James C. Nielsen 15 Melissa A. Wurster 16 ATTORNEYS FOR PHILADELPHIA INDEMNITY INSURANCE COMPANY	PILLSBURY & COLEMAN LLP  By: <u>/s/ Eric K. Larson</u> Eric K. Larson Attorneys for GREGORY KUHL
17 FARELLA BRAUN + MARTEL  18 19 By: <u>/s/ Mary E. McCutcheon</u> 20 Mary E. McCutcheon 21 Patrick S. Loi Attorneys for ANN WRIXON	MUSICK PEELER & GARRETT LLP  By: <u>/s/ Teresa Cho</u> David A. Tartaglio Theresa Cho Attorneys for LANDMARK AMERICAN INSURANCE COMPANY
24 GREENAN, PEFFER, SALLANDER & LALLY LLP  25 26 By: <u>/s/ Robert G. Seeds</u> Robert L. Sallander, Jr. Robert G. Seeds Attorneys for NAVIGATORS INSURANCE COMPANY	

**E-FILING ATTESTATION**

I, Melissa A. Wurster, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.


/s/ Melissa A. Wurster

~~[PROPOSED]~~ ORDER

Having considered the parties' Stipulation, and good cause appearing, the Court hereby GRANTS the parties' Stipulation. *Landmark American Insurance Company v. Navigators Insurance Company, Philadelphia Indemnity Insurance Company et al.*, case number 3:18-cv-05504 CRB and *Philadelphia Indemnity Insurance Company v. Gregory Kuhl and Ann Wrixon*, case number 4:20-cv-03708-HSG, shall be deemed related pursuant to Civil Local Rule 3-12(a) and the above-captioned actions shall be assigned to the Honorable Charles R. Breyer.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 29, 2020

  
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Honorable Charles R. Breyer  
United States District Court Judge